

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER**

**IN THE MATTER OF:**

**M.A., INC.  
Spring Grove Mobile Home Park  
Burlington, Iowa  
Wastewater Facility No. 6-29-00-6-02**

**ADMINISTRATIVE  
CONSENT ORDER  
2007-WW-10**

**TO:** Mark Anderson, President  
M.A., Inc.  
117 N. Woodlawn  
Burlington, Iowa 52601

**I. SUMMARY**

The Iowa Department of Natural Resources (Department) and Mark Anderson, President of M.A., Inc. hereby agree to the withdrawal of the application for reissuance of NPDES Permit No. 6-29-00-6-02 for Spring Grove Mobile Home Park and that the permit for this facility has expired. This action will be effective upon signature of the Director to this administrative consent order (order).

Any questions regarding this order should be directed to:

**Relating to technical requirements:**

Jim Sievers  
Environmental Specialist Senior  
IDNR Field Office No. 6  
1004 West Madison  
Washington, Iowa 52537  
Ph: 319/653-2135

**Relating to legal issues:**

Diana Hansen  
Attorney at Law  
Iowa Department of Natural Resources  
Henry A. Wallace Building, 509 E. 9th  
Des Moines, Iowa 50319-0034  
Ph: 515-281-6267

**II. JURISDICTION**

The parties agree that this action is pursuant to the authority granted in Iowa Code sections 455B.174 and 455B.175, Iowa Code section 17A.18, 567 Iowa Administrative Code (IAC) 64.3(11), and 561 IAC chapter 7, as adopted by reference by 567 IAC chapter 7.

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**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
M.A., INC., SPRING GROVE MOBILE HOME PARK**

**III. STATEMENT OF FACTS**

The parties agree to the following statement of facts.

1. M.A., Inc. owns and operates an activated sludge wastewater treatment plant and polishing pond or wastewater treatment facility (WWTF) serving the Spring Grove Mobile Home Park (Spring Grove). Mark Anderson is the president of M.A., Inc. Spring Grove is located near Burlington, Iowa. The legal description for Spring Grove is Sec. 24, T69N, R3W, Des Moines County, Iowa. The permit allows the discharge of treated wastewater to Spring Creek, tributary to the Mississippi River, pursuant to Iowa NPDES permit 6-29-00-6-02.

2. The NPDES permit was issued on September 6, 1994, with an expiration date of September 6, 1999. Although a permit renewal application was submitted for this facility, the NPDES permit has not been renewed due to various compliance issues. The permit renewal application was submitted on March 12, 1999.

3. The NPDES permit requires that monitoring be conducted for the facility in accordance with the permit. The permit requires sampling of the final effluent for flow, CBOD5, total suspended solids, and pH (minimum- maximum). The permit also sets effluent limitations for these parameters that are required to be met. The WWTF is prohibited by the permit from discharging pollutants except in compliance with the effluent limitations established by the permit.

4. The NPDES permit requires this facility to submit monthly operating reports (MORs) with the results of all monitoring on forms provided by the Department. Mark Anderson, M.A., Inc., has repeatedly and continuously failed to submit monthly records of operation as required for this facility. It is assumed that some or all of the monitoring required to be reported on such reports was not conducted. Notice of violation letters were issued for failure to submit MORs on February 8, 2007, October 17, 2005, July 6, 2005, November 21, 2003, and August 29, 2003.

5. The facility additionally has had maintenance and operation violations. Notice of violation letters were issued on October 17, 2005, July 6, 2005, November 21, 2003, and March 6, 2003 for failure to properly maintain this facility. Administrative Order No. 2002-WW-08 was issued on April 2, 2002. That order was issued in part due to maintenance and operation deficiencies at the WWTF serving Spring Grove.

6. The facility has failed to meet all effluent limits when monitoring has been conducted and test results received. A notice of violation letter was issued for these deficiencies on March 6, 2003. The 2002 administrative order also discussed monitoring violations.

7. In view of the violations stated in this order, the Department has good cause to revoke the NPDES permit issued to M.A., Inc. for operation of the Spring Grove Mobile

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
M.A., INC., SPRING GROVE MOBILE HOME PARK**

Home Park and to deny reissuance of the NPDES Permit. In lieu of revocation and denial of reissuance of the NPDES Permit, Mark Anderson, as President of M.A., Inc. hereby agrees to withdraw the application for reissuance of the NPDES Permit and that the NPDES Permit has expired and is no longer in effect.

**IV. CONCLUSIONS OF LAW**

The parties agree to the following statement of facts:

1. Iowa Code section 455B.174 authorizes the Director of the Iowa Department of Natural Resources the authority to issue, revoke, suspend, modify, or deny NPDES permits. Section 455B.174(4)"a" provides as follows:

...The director shall issue, revoke, suspend, modify, or deny permits for the operation, installation, construction, addition to, or modification of any disposal system or public water supply system except for sewer extensions and water distribution extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The director shall also issue, revoke, suspend, modify, or deny permits for the discharge of any pollutant, or for the use or disposal of sewage sludge. ...The director shall not issue or renew a permit to a disposal system or a public water supply system which is not viable. ...

2. Iowa Code section 17A.18, which pertains to licenses, provides as follows:

1. When the grant, denial or renewal of a license is required by Constitution or statute to be preceded by notice and opportunity for an evidentiary hearing, the provisions of this chapter concerning contested cases apply.

2. When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of a new license limited until the last day for seeking judicial review of the agency order or a later date fixed by order of the agency or the reviewing court.

3. No revocation, suspension, annulment or withdrawal, in whole or in part, of any license is lawful unless, prior to the institution of agency proceedings, the agency gave written, timely notice by personal service as in civil actions or by restricted certified mail to the licensee of facts or conduct and the provision of law which warrants the intended action, and the licensee was given an opportunity to show in an evidentiary hearing conducted according to the provisions of this chapter for contested cases, compliance with all lawful requirements for the retention of the license.

3. Department subrule 64.3(11) provides for the Director's authority to suspend or revoke any individual operation permit. This subrule provides as follows:

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
M.A., INC., SPRING GROVE MOBILE HOME PARK**

64.3(11) The director may suspend or revoke in whole or in part any individual operation permit or coverage under a general permit for cause. Except for general permits, the director may modify in whole or in part any individual operation permit for cause. A variance or modification to the terms and conditions of a general permit shall not be granted. If a variance to a general permit is desired, the applicant must apply for an individual permit following the procedures in 64.3(4)"a."

Cause for modification, suspension or revocation of a permit includes the following:

- a. Violation of any term or condition of the permit.
- b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.
- d. Failure to submit such records and information as the director shall require both generally and as a condition of the operation permit in order to ensure compliance with the discharge conditions specified in the permit.
- e. Failure or refusal of an NPDES permittee to carry out the requirements of 64.7(5)"c."
- f. Failure to provide all the required application materials or appropriate fees.

The Department maintains that it has sufficient basis for revocation of this NPDES permit under subrule 64.3(11)"a" and "d" based on this permittee's failure to submit MORs with all required monitoring. Such failure is established by notice of violation letters sent to the facility owner from August 2003 through February 2007. Failure to submit MORs is a violation of a permit term or condition, a cause for permit revocation under subrule 64.3(11)"a". It is also a failure to submit records and information required as a condition of the operation permit in order to ensure compliance with permit effluent limitations or discharge conditions, which is grounds for revocation pursuant to 64.3(11)"d".

Failure to maintain this facility is a violation of a separate standard or condition found in the NPDES permit and a separate basis for permit revocation under 64.3(11)"a". Standard condition no. 8 pertains to proper operation and maintenance. "All facilities and control systems shall be operated as efficiently as possible and maintained in good working order. A sufficient number of staff, adequately trained and knowledgeable in the operation of your facility shall be retained at all times and adequate laboratory controls and appropriate quality assurance procedures shall be provided to maintain compliance with the conditions of this permit. *(See 40 CFR 122.41(c) and 567 64.6(5)(f) IAC)*"

This facility owner has failed to properly maintain and operate the WWTF for Spring Grove as established by the notice of violation letters sent to this facility from March 2003 through February 2007. Facility inspections and visits during this time period also confirm the Department's position that this facility has not been properly operated and maintained.

**IOWA DEPARTMENT OF NATURAL RESOURCES  
ADMINISTRATIVE CONSENT ORDER  
M.A., INC., SPRING GROVE MOBILE HOME PARK**


3. Revocation of the NPDES permit issued for the operation of the Spring Grove Mobile Home Park and denial of reissuance of the NPDES permit are justified given the failure to perform monitoring and reporting, failure to properly operate and maintain this wastewater facility, and failure to meet permitted effluent limits, all conditions of the NPDES permit issued to this facility. The parties, however, in order to resolve this matter have agreed that the application for reissuance of the NPDES permit is withdrawn and that NPDES Permit No. 6-29-00-6-02 has expired and no longer remains in effect.

**V. ORDER**

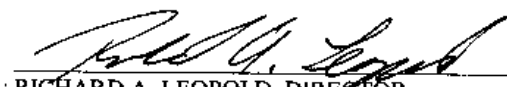
The Department and Mark Anderson, as President of M.A., Inc., hereby agree to the withdrawal of the application for renewal of NPDES Permit No. 6-29-00-6-02. The parties agree that NPDES Permit No. 6-29-00-6-02 issued to M.A., Inc., for the operation of the wastewater disposal system at Spring Grove Mobile Home Park, Burlington, Iowa has expired and is no longer in effect.

**VI. WAIVER OF APPEAL RIGHTS**

Iowa Code section 455B.175, and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Environmental Protection Commission. This order is entered into knowingly by and with the consent of Mark Anderson, as President of M.A., Inc. By signature to this order, all rights to appeal this order are waived. The parties agree that this order is effective upon signature of the Director to this order.

  
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MARK ANDERSON, PRESIDENT  
M.A., INC.

Dated this 22 day of  
June, 2007

  
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RICHARD A. LEOPOLD, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 2 day of  
July, 2007

M.A., Inc., Spring Grove Mobile Home Park- NPDES Permit No. 6-29-00-6-02, Jim Sievers- Field Office No. 6, Diana Hansen- Legal Services Bureau, EPA Region VII, I.B.2.a., I.B.2.c., I.B.2.d., I.D.